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09/944,922	08/31/2001	Joseph B. Fuller	29409/01	2250

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EXAMINER

TORRES, ALICIA M

ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/944,922
Filing Date: August 31, 2001
Appellant(s): FULLER, JOSEPH B.

Joseph B. Fuller
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 21 July 2005 appealing from the Office action mailed 7 February 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

This appeal involves claims 1-5.

Claims 6-17 have been canceled.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

The amendment after final rejection filed on 7 January 2005 has not been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winslow 2,038,697 in view of Moore 4,107,901.

Winslow discloses a device comprising:

- A base (1) comprising a front and a rear
- A motor (not shown, see column 1, lines 38-41) attached directly to the base (1)
- Two unidirectional wheels (3) attached directly to the front of the base (1)
- A multidirectional wheel (4) attached directly to the rear of the base (1)
- A handle (10)
- A universal joint (see Figure 4) comprising two non-parallel axles (13, 15) connecting the handle (10) to the rear of the base (1) above the multi-directional wheel (4), as per claim 1
- Wherein the base (1) comprises a recess (see Figure 2), as per claim 2

Wherein the universal joint (40) comprises:

- A handle couple (11) attached to the handle (10)
- A link (12) rotatably attached to the handle couple (11)
- A bracket (14) rotatably attached to the link (12) and attached to the base (1), as per claim 4.

While Winslow discloses that the connection may be used on a lawn mower, Winslow does not specifically disclose wherein the motor is attached to and rotates a cutting element wherein the cutting element comprises at least one line.

Moore discloses a wheeled lawn mower wherein the motor (6) is attached to and rotates a cutting element (11) wherein the cutting element (11) comprises at least one line.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the cutting line of Moore on the lawn mower of Winslow in order to provide a cutting device with simple and lightweight construction.

With respect to the multidirectional wheel (4) of Winslow, it appears the wheel is multidirectional since a user would be forced to drag the wheel (4) across the lawn in order to get from the position shown in Figure 2 to that of Figure 3 if the structure were any otherwise.

If Applicant disputes the above assessment of Winslow, Hampton 5,806,867 discloses a wheeled device steered by a handle (36) connected to a base (10) through a universal joint (40), the base (10) including unidirectional wheels (30b, 30c) and multidirectional wheels (30b, 30d) located opposite the unidirectional wheels and below the universal joint.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the multidirectional wheels of Hampton on the device of Winslow and Moore in order to allow easy steering.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winslow 2,038,697 in view of Moore 4,107,901 as applied to claim 1 above, and further in view of Yamada 4,179,805.

The device is disclosed as applied to claim 1 above. However, Winslow and Moore fail to disclose a lower grip attached to the handle.

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Yamada discloses a trimmer including a lower grip.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the lower grip of Yamada on the device of Winslow and Moore '901 in order to support the apparatus in good balance.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winslow 2,038,697 in view of Moore 4,107,901 as applied to claim 1 above, and further in view of Knox, Jr. 5,970,694.

The device is disclosed as applied to claim 1 above. However, Winslow and Moore fail to disclose wherein the motor is an electric motor.

Knox, Jr. discloses a trimmer wherein the motor (33) is an electric motor.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the electric motor of Knox on the device of Winslow and Moore '901 in order to provide a lightweight power means.

(10) Response to Argument

In the Appeal Brief, Applicant seems to argue that the combination of Moore in view of Winslow is not obvious as applied to claims 1, 2 and 4 since Moore discloses a string trimmer mower instead of a mower with a blade. In response to these arguments, the examiner would like to point out that 1) the rejection was made over Winslow in view of Moore and 2) the combination of Winslow and Moore is obvious.

First, the Applicant seems to be arguing the rejection based on the combination of Moore in view of Winslow. Applicant states, "The Office ignores this clear teaching from one of skill

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in the art and concludes that it would be obvious to combine a string trimmer, as taught by Moore, with features of a lawn mower to arrive at the present invention.” (Appeal Brief page 6, lines 1-4).

Contrary to Applicant’s statements in the Appeal Brief, the rejection was made based on Winslow in view of Moore (See Final Rejection paragraph 3). The rejection does not modify the device in Moore but instead modifies the device in Winslow. The rejection states, “ It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the cutting line of Moore on the lawn mower of Winslow in order to provide a cutting device with simple and lightweight construction.” (Final Rejection paragraph 3). Applicant is arguing a rejection that was not made.

Second, Applicant seems to argue that a combination of Moore in view of Winslow is not obvious since a stringed edge trimmer is not a lawn mower. Since again the rejection was made based on Winslow in view of Moore and not Moore in view of Winslow as Applicant argues, Applicant’s arguments that “One of skill in the art would be lead away from a handle for lateral movement which is contrary to the intended use of the mower upon which it is attached” (Appeal Brief page 4, line 11-13) do not directly apply to the rejection as actually given in the Final Office Action. The examiner is not trying to replace a steel blade with a string trimmer head assembly as Applicant argues.

The rejection is based on modifying the device in Winslow to include a head from a lawn mower as in Moore. Winslow discloses a manually operated tool that meets all the limitations except for attaching the motor to a cutting line element. Winslow does teach different tools can be attached to the device, including expressly suggesting that that the tool can be a lawn mower

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(Col. 1, line 16). Nowhere in Winslow does it state that the lawn mower has to be a blade type of lawn mower.

Moore discloses a lawn mower with a cutting line element. Moore expressly calls his device a lawn mower (See title) and even discusses how his device is different from a stringed edge trimmer (See Col. 3, lines 27-47). Moore's invention is that he made a lawn mower having cutting line elements instead of a blade. The rejection is based on the combination of providing the device in Winslow with a cutting head of a lawn mower like the lawn mower in Moore. The lawn mower in Moore is a type of lawn mower having cutting line elements.

Therefore, given the suggestion in Winslow that a lawn mower tool can be attached to the device, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to attach the mower including cutting line elements in Moore to the device in Winslow.

Further, the two citations Applicant has provided from the background of Moore (See Appeal Brief page 4) discuss the replacement of a blade from a blade type lawn mower with a string element of an edger/trimmer. These citations, when read in the context of the remainder of the background, are actually a discussion about how Moore's invention is a cutting line type lawn mower. The rejection in the Final Office Action merely provides the cutting line type lawn mowing tool in Moore, which is not a string element on an edger/trimmer, with the device in Winslow. The modification Applicant is arguing is not the modification made in the Final Office Action.

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(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

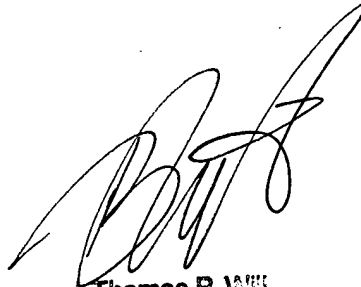
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Conferees:

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